

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

CERTAIN UNDERWRITERS)	
AT LLOYD’S, LONDON)	
SUBSCRIBING TO POLICY NO.)	
AH00000154-01,)	
)	
Plaintiff,)	
)	
v.)	CV422-035
)	
CHERYL EDENFIELD, as)	
Mother and as Legal Guardian)	
Of Quincy Edenfield, an)	
Incapacitated Adult, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Defendants’ Motion to Dismiss and Second Motion to Dismiss are currently pending before the District Judge. *See* docs. 12 & 21.¹ They have filed a Motion to Stay pending disposition of those motions. *See* doc.

¹ It is unclear from Defendants’ Second Motion to Dismiss and Motion to Stay whether they contend their initial Motion to Dismiss is now moot. *See* docs. 21 & 29; doc. 14 (Amended Complaint); *see also, e.g., Auto-Owners Ins. Co. v. Tabby Place Homeowners Assn.*, ___F. Supp. 3d ___, 2022 WL 4542114, at *2 n. 4 (S.D. Ga. Sept. 28, 2022) (“An amended complaint that does not incorporate the prior pleading . . . moots the motion to dismiss the original complaint because the motion seeks to dismiss a pleading that has been superseded.” (internal quotation marks and citation omitted)). Defendants are, therefore, **DIRECTED** to **SHOW CAUSE** within 14 days of the date of this Order why their initial Motion to Dismiss should not be dismissed as moot. Doc. 12.

39. The Motion to Stay is unopposed. *See* S.D. Ga. L. Civ. R. 7.5 (“Failure to respond within [14 days] shall indicate that there is no opposition to a motion.”); *see generally* docket (Plaintiff has not responded to the Motion to Stay). For the following reasons, the unopposed Motion to Stay is **GRANTED**. Doc. 39.

A court has “broad discretion” in determining whether to grant a stay of discovery. *Rivas v. The Bank of New York Mellon*, 676 F. App’x 926, 932 (11th Cir. 2017). The Eleventh Circuit has recognized that it is appropriate for the Court dispose of “[f]acial challenges to the legal sufficiency of a claim or defense, such as a motion to dismiss based on failure to state a claim for relief,” before the parties engage in costly and potentially unnecessary discovery. *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1367-68 (11th Cir. 1997).

When “deciding whether to stay discovery pending resolution of a pending motion, the Court inevitably must balance the harm produced by a delay in discovery against the possibility that the motion will be granted and entirely eliminate the need for such discovery.” *SP Frederica, LLC v. Glynn Cnty.*, 2015 WL 5242830, at *2 (S.D. Ga. Sept. 8, 2015) (internal quotation marks omitted) (quoting *Feldman v. Flood*,

176 F.R.D. 651, 652 (M.D. Fla. 1997)). In evaluating stays of discovery pending resolution of dispositive motions, “a court must take a ‘preliminary peek’ . . . to assess the likelihood that the motion will be granted.” *Taylor v. Jackson*, 2017 WL 71654, at *1 n.2 (S.D. Ga. Jan. 6, 2017) (quoting *Sams v. GA West Gate, LLC*, 2016 WL 3339764, at *6 (S.D. Ga. June 10, 2016)). “[A] stay should be granted only where the motion to dismiss appears, upon preliminary review, to be clearly meritorious and truly case dispositive.” *Sams*, 2016 WL 3339764, at *6 (internal quotation marks and citation omitted). “A request to stay discovery pending a resolution of a motion is rarely appropriate unless resolution of the motion will dispose of the entire case.” *CSX Transp., Inc. v. United States*, 2014 WL 11429178, at *1 (S.D. Ga. May 30, 2014) (citing *Feldman*, 176 F.R.D. at 652).

Plaintiff does not oppose the stay request, *see generally* docket, and does not indicate that it would be prejudiced by a stay. Upon preliminary review, the Motions to Dismiss do not appear to be meritless. *See* docs. 12 & 21. Additionally, Defendants seek dismissal of the entire case. *Id.* On balance, then, a stay is appropriate.

Defendants' unopposed Motion to Stay Discovery is **GRANTED**, doc. 39, and all deadlines in this case are **STAYED** pending disposition of their Second Motion to Dismiss, doc. 21. Upon disposition of the Second Motion to Dismiss, the Clerk is **DIRECTED** to lift the stay. If the case remains pending, the parties are **DIRECTED** to confer and submit a new Rule 26(f) report within 14 days from that disposition, unless otherwise instructed by the District Judge.

SO ORDERED, this 8th day of February, 2023.



CHRISTOPHER L. RAY
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA